SUPREME COURT OF THE UNITED STATES

Michigan Supreme Court No. 44809½

FRED A. ENGEL, ET. AL.,

Petitioners,

vs.

RECORDER'S COURT, CITY OF DETROIT, MICHIGAN

MEMORANDUM OF LAW

"This Court must determine for itself whether the suit really involves any Federal question which will entitle it to review the judgment of the State Court." (151 U.S. 527)

If it be reasonably apparent that the State Court has dodged the Federal question, the U. S. Supreme Court asserts its right and assumes jurisdiction. (Eugene F. Ware, "From State Court to U. S. Supreme Court.")

As to whether or not a Federal question is well pleaded is itself a Federal question. (185 U.S. 148.)

In the instant cause, the Federal question was raised in the original initial petition for common law writ of certiorari in the State Court. Both on hearing and on rehearing the Federal question was before the Court, a question inextricably bound up with the facts of the cause.

"If a Federal question is fairly presented by the record, and its decision is necessary to determination of the case, a judgment which rejects the Federal claim but avoids all reference to it, is as much against the right, within the meaning of Rev. Stat. Sec. 709 as if it had been specifically referred to, and the right directly refused." (123 U.S. 540) (68 U.S. 109) (124 U.S. 394)

Respectfully submitted,

LEONA D. ENGEL,
965 Brainard Street,
Detroit 1, Michigan,
Petitioner in proper person.

Dated: December 6, 1950.

JAN 8 19
CHARLES ELMORE C

United States of America

In the

Supreme Court of the United States

OCTOBER TERM, 1950

No. 445

FRED A. ENGEL, et al.,
Petitioner,
vs.
RECORDER'S COURT OF THE CITY OF DETROIT, MICHIGAN,
Honorable W. McKay Skillman, Judge,
Respondents

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN

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BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MICHIGAN

Honorable W. McKay Skillman, Judge of Recorder's Court of the City of Detroit, herewith opposes the issuance of a writ of certiorari in the above cause for the reason that no copy of a printed record including the proceedings in the Court to which the writ is asked to be directed, has been served by petitioner on the undersigned counsel for the respondent to date.

See Rule 38, Rules of the Supreme Court of the United States, paragraph three thereof, which reads in part as follows:

> "Notice of the filing of the petition, together with a copy of the petition, printed record and supporting brief, shall be served by the petitioner on counsel for the respondent within ten days after the filing (unless enlarged by the court, or a justice thereof when the court is not in session), and due proof of service shall be filed with the clerk."

PAUL T. DWYER,
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Counsel for Respondent.

Dated: January 4, 1951.